UNITED STATES COURT OF APPEALS

Filed 10/16/96

FOR THE TENTH CIRCUIT

In the Matter of: MOTOR HOME (1), a late model beige or tan motor home which was towing a blue CJ5 jeep. The motor home was recently bearing Texas license plate number 362TRG, registered to Wilma L. McQueen, Rt 4, Box 1225, Livingston, TX and identified by Vehicle ID No. 1G8KP37W553333241, Defendant, _____ UNITED STATES OF AMERICA, Plaintiff-Appellee, v. ALVY T. MCQUEEN, Movant-Appellant.	No. 95-1416 (D.C. No. 95-CR-353) (D. Colo.)

ORDER AND JUDGMENT*

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* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Before BRORBY, BARRETT, and EBEL, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f) and 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

Movant Alvy T. McQueen appeals from an order of the United States District Court for the District of Colorado denying his motion for an order permitting him to appeal an order entered by the United States District Court for the Southern District of Texas in a civil case pending there.

In 1988, the Colorado district court issued a search warrant authorizing a search of Mr. McQueen's motor home. Following entry of a guilty plea and his subsequent imprisonment in Texas, Mr. McQueen commenced a civil action in Texas district court challenging the disclosure of certain documents seized pursuant to the search warrant. In 1994, Mr. McQueen moved in the Colorado district court to either unseal an affidavit and supporting documents submitted to support the search warrant or to transfer those documents under seal to the Texas district court to permit it to determine whether the materials should be released. In his motion, Mr. McQueen noted that "the federal district court in Houston, Texas will be uniquely situated to understand the critical facts bearing upon any

continuing need for secrecy of the information involved here and make appropriate decisions as to whether the information should be released or considered in camera by that Court in dispensing justice in that case." Supplemental App. at 2. The Colorado district court granted the motion and sent copies of the requested materials under seal to the Texas district court which determined that the materials could be unsealed as redacted by the court.

Mr. McQueen then asked the Texas district court to forward its order for entry in the case in Colorado so he could appeal the Texas court's order. When the Texas district court denied the motion, Mr. McQueen asked the Colorado district court for an order permitting him to appeal the Texas district court's order. The Colorado district court denied the motion and Mr. McQueen now appeals that order.

As we must, we first review whether we have jurisdiction over this appeal. See Lopez v. Behles (In re American Ready Mix, Inc.), 14 F.3d 1497, 1499 (10th Cir.), cert. denied, 115 S. Ct. 77 (1994)(appellate court has an independent duty to examine its own jurisdiction, even where neither party contests it and both are prepared to concede it). We conclude that we do have jurisdiction. The district court's order was a final order. See 28 U.S.C. § 1291.

Next, we consider whether the Colorado district court properly denied Mr. McQueen's motion. We conclude that it did. An appeal from a reviewable

decision of a district court "shall be taken . . . to the court of appeals for the circuit embracing the district." 28 U.S.C. § 1294(1). Neither the federal District court for the district of Colorado nor this court has jurisdiction to review the judgment of the federal District court for the Southern district of Texas.

The judgment of the United States District Court for the District of Colorado is AFFIRMED.

Entered for the Court

James E. Barrett
Senior Circuit Judge